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No. 06-1234

FILED
MAY 10 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

BRADFORD G. BROWN,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR REHEARING

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SUMMARY

Petitioner's counsel for 28 U.S.C. § 2255 appeal (Mark Yurachek) refused to submit to the District Court, as a ground for relief, "Petitioner's 1994 tax liability was zero, which implied evasion for 1994 was not possible". Petitioner informed the court of counsel's conduct in a letter, and requested that the Court remedy the situation by referral to the Grievance Committee for investigation. The Court declined to refer the matter, and wrote letter to Petitioner stating same. The court then ruled on the Yurachek 2255 motion by denying it. This ruling by the court was based on known materially false or incomplete information (abuse of discretion).

Petitioner applied to the Eleventh Circuit for certificate of appealability ("COA"), citing abuse of discretion (among other things). Application for COA was denied. Petitioner applied to the Eleventh Circuit for reconsideration of application for COA, citing abuse of discretion (among other things). Application for reconsideration of application for COA was denied.

Petitioner discovered on or about January 10, 2007 (upon careful review) that his 1995 tax liability was zero, which implied "evasion for 1995 was not possible".

Petitioner applied January 24, 2007 to the Supreme Court for Writ of Certiorari, citing among other things abuse of discretion and innocence (zero tax liability for both conviction years, 1994 and 1995, rendering an assertion of innocence appropriate). Petition for Writ of Certiorari was denied, April 16, 2007. Petitioner began his term of "supervised release" in the summer of 2006.

Petitioner was instructed by the District Court at his sentencing hearing, as follows:

> "During the period of supervision the court shall be notified of any change in your economic circumstances as they pertain to your ability to pay the monetary penalty".
>
> "The court may adjust the payment schedule as the interest of justice requires, and I'm sure you're intelligent enough to know that I don't think that you're going to be able to immediately be able to pay $86,000 a month, but I've got to put something in the order, and we will deal with your situation when the time comes".

See sentencing hearing transcript ("SHT"), page 47, attached hereto as Exhibit A. This is acknowledgement that this was an impossible set of terms of supervised release and that Petitioner was instructed to revisit terms of supervised release "when the time comes".

In response to above instructions, Petitioner filed motions for reconsideration of restitution and fine.

The Probation Department then filed a motion to revoke Petitioner's supervised release, citing "failure to pay fine and restitution". Revocation motion was granted.

At the time of revocation of supervised release, Petitioner had three motions before the District court (which have never been ruled upon). These motions appear in the Case Docket ("Doc") as follows:

Date Filed	Entry #	Motion description
10/23/2006	Doc 121	Motion for Reconsideration of Restitution and Fine. Tax liability for 1994 is zero

		(first conviction year). Response due by 11/15/2006.
01/10/2007	Doc 122	Motion to Amend Motion for Reconsideration of Restitution and Fine. Tax liability for 1995 is zero (final conviction year).
02/26/2007	Doc 130	Motion to Amend Amended Motion for Reconsideration of Restitution and Fine. Zero tax liability for 1996, 1997, 1998, 1999, 2000, 2001 (additional years upon which restitution and fine based). Response due by 03/21/2007.

District Court revoked Petitioner's supervised release on 03/14/2007.

As Petitioner was instructed to notify the District Court of "change in your economic circumstances as they pertain to your ability to pay the monetary penalty", the three pending motions (never ruled upon) before the District Court were Petitioner's attempt to fulfill the District Court's instructions to provide notification.

The three motions pending before the District Court demonstrate that Petitioner owed zero tax liability for all years associated with his order of restitution and fine.

The correct restitution and fine to be associated with a zero tax liability are both zero.

The decision of the District Court to revoke Petitioner's supervised release without ruling on the three motions pending before that court caused said court to punish Petitioner as if his tax liability was not zero for

years of conviction. This is clearly erroneous fact finding, producing an unreasonable conclusion. This is abuse of discretion, as described in *Schiavo v. Schiavo*, 404 F.3d 1270 (11th Cir. 2005).

ARGUMENT

The issue of Petitioner's conviction for tax evasion for years in which he owed no tax and the failure of the District Court to rule on the pending motions which established that fact qualify Petitioner for reconsideration of his Petition for Writ of Certiorari.

CONCLUSION

Petitioner respectfully requests relief from this Honorable Court as follows:

a. grant Writ of Certiorari;

b. remand for Internal Revenue Service ("IRS") certification of Petitioner's returns;

c. stay of supervised release revocation, pending IRS certification;

d. all further relief that this Honorable Court deems just and proper.

This 10th day of May, 2007.

Respectfully submitted,

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CERTIFICATION

This is to certify that I, Bradford G. Brown, do assert upon my solemn oath under the penalty of perjury, that all statements in the above ***PETITION FOR REHEARING*** are true and complete, to the best of my ability, and not advanced for the purpose of delay.

This 10th day of May, 2007.

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EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

SENTENCING HEARING

* * *

[47] amount of $86,750 a month for 36 months.

During the period of supervision the court shall be notified of any changes in your economic circumstances as they pertain to your ability to pay the monetary penalty.

The court may adjust the payment schedule as the interest of justice require, and I'm sure you're intelligent enough to know that I don't think that you're going to immediately be able to pay $86,000 a month, but I've got to put something in the order, and we will deal with your situation when the time comes.

The Court reserves the opportunity to address any outstanding balance prior to the conclusion of your term of supervision. At that time the Court will consider all available sanctions, including civil remedies available through the United States Attorney's Office.

The prison term is to be followed by a term of supervised release of three years to include the standard and mandatory conditions of supervised release and the following special conditions.

First, you are prohibited from owning a firearm or other dangerous weapon. And let me elaborate on that and make sure you understand that that means from this point on, whether you are on supervised release or after, you cannot own any firearm.

I don't know whether you hunt or have any interest in

* * *